

STATE OF MICHIGAN
COURT OF APPEALS

In re YOUNG, Minors.

UNPUBLISHED
May 26, 2016

No. 330552
Jackson Circuit Court
Family Division
LC No. 14-001146-NA

Before: GADOLA, P.J., and SERVITTO and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to her minor children TY and TLY under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care and custody), and MCL 712A.19b(3)(j) (reasonable likelihood of harm). We affirm.

Respondent argues that the trial court’s termination of her parental rights violated her constitutional right to the care and custody of her children.¹ We disagree.

Parents have a “significant interest in the companionship, care, custody, and management of their children.” *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). This right entitles the parent to due process before the state may remove the parent’s child from his or her custody. *In re Sanders*, 495 Mich 394, 421-422; 852 NW2d 524 (2014). However, once the petitioner has established that a parent is unfit, the parent’s rights yield to the State’s interests in protecting the child. See *id.* at 409-410. “In Michigan, procedures to ensure due process to a parent facing . . . termination of his [or her] parental rights are set forth by statute, court rule, DHS policies and procedures, and various federal laws[.]” *In re Rood*, 483 Mich 73, 93; 763 NW2d 587 (2009).

Those procedures were followed in this case. The case began when petitioner filed a petition seeking jurisdiction over the children. Subsequently, an adjudication hearing was held, and respondent pleaded no contest to the allegations in the petition. The trial court then took jurisdiction over the children. Petitioner provided respondent with numerous services aimed at

¹ This issue is unpreserved because it was not raised before the trial court. See *In re TK*, 306 Mich App 698, 703; 859 NW2d 208 (2014). We review “an unpreserved claim of constitutional error . . . for plain error affecting substantial rights.” *Id.*

reunification, including case management, supervised parenting time, parenting classes, individual therapy, a psychological evaluation, Early Head Start programming, Lifeways services, Recovery Technology services to help her bond with the children, and assistance with transportation to parenting time and to one of the children's medical appointments. In addition, petitioner provided an updated case service plan every 90 days and the trial court reviewed the case every 91 days. Further, a permanency planning hearing was held after the children had been in care for almost a year. At that time, the trial court assessed respondent's compliance with her case service plan and found that no progress had been made. Subsequently, after the children had been in care for over a year, the trial court directed petitioner to file a petition seeking termination of respondent's parental rights. Following the termination hearing, the trial court found by clear and convincing evidence that termination was proper under MCL 712A.19b(3)(c)(i), (g), and (j). The court also found by a preponderance of the evidence that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5).

Respondent asserts that it would be fundamentally unfair to not allow a parent who has a temporary hardship and voluntarily places a child with the Department of Health and Human Services (DHHS) to not be permitted to parent her children when she overcomes the temporary hardship. She also asserts that she should be given more time to "get her situation together" because a constitutional right was at issue. Respondent, however, has not directed our attention to any deficiencies in the procedural safeguards actually used in this case. The procedures employed carefully protected her right to parent her children. For more than a year, she was provided with numerous reunification services and case review. She was unable to show progress. Subsequently, when the goal was changed from reunification to termination, she was provided with additional protection in the form of a termination hearing at which petitioner had the burden of establishing clear and convincing evidence of statutory grounds for termination and that a preponderance of the evidence supported that the termination would be in the children's best interests. Following the presentation of proofs, the trial court concluded that the petitioner met its burden. And respondent does not challenge the court's findings on appeal. Given that the available constitutional safeguards were actually used and respondent has identified no deficiencies with them, we conclude that respondent was not unconstitutionally denied her right to parent her children.

Affirmed.

/s/ Michael F. Gadola
/s/ Deborah A. Servitto
/s/ Douglas B. Shapiro